**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**C.R.No. 3481 of 2004**
**Date of decision : 9.01.2007.**

Gram Panchayat of village Shermajra, Tehsil & District Patiala through its Sarpanch. .....Petitioner.

Versus

Shamsher Kaur & Another. .....Respondents.

**CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA**

Present : Mr.Arun Palli,Advocate
for the petitioner.

Mr. H.N.S. Gill, Advocate
for the respondents.

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**VINOD K. SHARMA,J.( ORAL )**

The petitioner by way of present revision has challenged the dismissal of his application vide which it was claimed that the affidavit filed by Smt. Shamsher Kaur along with copy of mutation No. 547 & 548 dated 1.4.2004 be not read in evidence.

The plaintiff respondent had moved an application under Order 41 Rule 27 C.P.C. for leading additional evidence and the same was allowed by the learned lower appellate Court. The said order was challenged by the petitioner in the court and the said revision petition was dismissed by observing as under :-

> "Heard. Since, the documents sought to be produced on record by the respondents ( appellants) are per-se admissible in evidence. So, there is no illegality or infirmity in the impugned order dated 27.10.2003. Hence, it is dismissed."

The respondent plaintiff while tendering the documents which were allowed by way of additional evidence also filed an affidavit along with mutation No. 547 & 548 dated 1.4.2004. The petitioner, therefore, moved an application for ignoring the evidence so produced by the respondent plaintiff. The learned lower Court dismissed the said application by observing that the application moved by the respondent plaintiff under Order 41 Rule 27 C.P.C. was allowed and, therefore, it was open to the plaintiff respondent to lead additional evidence and prove the facts mentioned in the said application. However, this finding of the learned lower Court cannot be sustained as the order for leading additional evidence could not be construed to allow Smt.Shamsher Kaur to appear again as witness in the case as she had already appeared as PW. The additional evidence was allowed by the Court by observing that only public documents are sought to be produced by way of additional evidence and the same was also noticed by this Court while rejecting the revision petition filed by the petitioner herein.

The impugned order is, therefore, modified and the affidavit filed by Smt. Shamsher Kaur is ordered to be removed from the record of the case. However, mutation No. 547 & 548 dated 1.4.2004 is allowed to be taken on record. However, the same can be read into evidence in case it is in consonance with the pleadings of the parties and not otherwise.

The revision stands disposed of.

9.1.2007 **( VINOD K. SHARMA )**
**'sp'** **JUDGE**